

Remarks

I. Status and Nature of the Amendments

Claims 1-24 are pending. Claims 5-11, 15-22 have been withdrawn as directed to a non-elected invention.

II. The Requirement for Restriction of the Claims

The Examiner has advised Applicant that the present application contains three separate and distinct inventions:

- I. Claims 1-4, 12-14 and 23-24, drawn to a method and kit for assaying one or more target analytes, classified in class 422, subclass 61;
- II. Claims 5-13 and 23-24, drawn to a method and kit for assaying one or more target analytes in a sample comprising a ligand bound to a support with bound interfering molecules that sterically hinder the binding ligand to target analyte, classified in class 436, subclass 537;
- III. Claims 15-22, drawn to a composition, classified in class 435, subclass 4.

The Examiner has accordingly advised that restriction of the claims is appropriate.

Applicant herewith responds to the Restriction requirement by electing to prosecute in this application **Invention I** (claims 1-4, 12-14 and 23-24). Claims directed to the non-elected invention have been withdrawn. Applicant's election is made with traverse. Applicant respectfully submits that the method claims of supposedly separate and distinct Inventions I and II clearly should be examined together. It is respectfully submitted that an examination of the claims of supposed Inventions I and II reveals that the mode of operation of the inventions recited in these claims involve:

- (A) providing a binding ligand of a target analyte; and
- (B) a solid support

The claims of Invention I provide that the ability of the binding ligand to bind the analyte is "hindered by a steric interference." The claims of supposedly separate and distinct invention II merely recite that such steric interference is mediated by "interfering molecules" that are bound to the solid support. Properly viewed, therefore, the claims of supposedly separate and distinct invention II are *species* of the inventions embodied in claims 1-4, 12-14 and 23-24.

Importantly, both sets of method claims operate on precisely the same principle: "determining, for such target analyte(s), the presence, absence, activity or concentration of said target analyte(s), by determining the extent of binding between said target analyte and said solid-support-bound binding ligand of said target analyte." Reconsideration of the requirement for restriction between the claims of Inventions I and II is earnestly requested.

Applicant notes that the Examiner has placed claim 5 (directed, as claim 1 to the use of steric interference) with claims 6-13 (directed to chemical interference). Clarification of this grouping is respectfully requested. It is submitted that claims 1-5, 10-14 are directed to methods that employ steric interference, while claims 6-14 are directed to methods that employ chemical interference). In the event that the Examiner elects to make the requirement of Restriction between Inventions I and II final, Applicants respectfully request that the Examiner provide an explanation of the allegedly different modes of operation of these claims.

The Examiner has advised that the invention of the claims of Inventions I/II are separate and distinct from the invention of the claims of Invention III. As support for this conclusion, the Examiner has advised that "the product claimed can be used for a different method such as the production of anti-idiotypic antibodies against the composition."

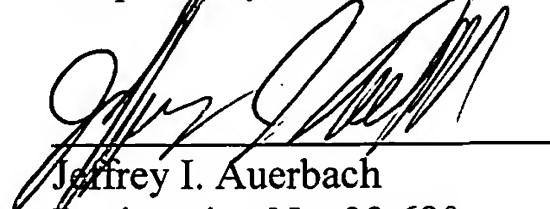
Applicants respectfully submit that such a conclusion is misplaced since the proposed alternate use is not seen as useful or viable. It is submitted that even if antibodies were to be used as the binding ligands so as to enable the isolation of anti-idiotypic antibodies, a distinguishing property of the composition is that the support interferes with binding of the intended analyte. The steric hindrance to analyte binding would thus hinder binding of anti-idiotypic antibodies. To the extent that the composition of the invention is successful at its intended goal, it is less successful in binding and subsequently releasing anti-idiotypic antibodies. Thus, the asserted alternate use is not seen as viable. In the absence of a viable alternate use, withdrawal of the restriction requirement is appropriate (M.P.E.P. 806.05 (h)).

Applicants respectfully request that the Examiner consider rejoining the withdrawn claims to the application in the event that Allowable subject matter is found with respect to the elected invention.

Having now responded to all of the Examiner's Objections, Applicant respectfully submits that the present application is in condition for Examination, and earnestly solicit early notice of favorable action. The Examiner is respectfully invited to contact the undersigned with respect to any issues regarding this application.

Date: June 5, 2006
Edell, Shapiro & Finnan, LLC
1901 Research Blvd., Suite 400
Rockville, MD 20850
Telephone: (301) 424-3640
Facsimile: (301) 762-4056

Respectfully Submitted,



Jeffrey I. Auerbach
Registration No. 32,680
Attorney for Assignee